

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JEFFREY GIBSON,	:	CIVIL NO. 1:06-CV-1207
	:	
Plaintiff	:	(Judge Conner)
v.	:	
	:	(Magistrate Judge Smyser)
U.S. ATTORNEY GENERAL and	:	
HEAD OF THE F.B.I.,	:	
	:	
Defendants	:	

JEFFREY GIBSON,	:	CIVIL NO. 1:06-CV-1259
	:	
Plaintiff	:	(Judge Conner)
v.	:	
	:	(Magistrate Judge Smyser)
U.S. ATTORNEY GENERAL and	:	
HEAD OF THE F.B.I.,	:	
	:	
Defendants	:	

REPORT AND RECOMMENDATION

By Order of July 10, 2006, these cases were combined and the plaintiff was ordered to file an amended complaint. The plaintiff has responded to that Order by stating in a July 14, 2006 filing that he will not file an amended complaint (Doc. 7).

A United States District Court is required by the Congress of the United States and the United States Supreme Court to apply the Federal Rules of Civil Procedure in a civil action. Rule 8(a) of the Federal Rules of Civil Procedure states the rule that governs what must be pleaded in a pleading which sets forth a claim for relief. Rule 8(a) states:

A pleading which sets forth a claim for relief, whether an original claim, counterclaim, cross-claim, or third-party claim, shall contain (1) a short and plain statement of the grounds upon which the court's jurisdiction depends, unless the court already has jurisdiction and the claim needs no new grounds of jurisdiction to support it, (2) a short and plain statement of the claim showing that the pleader is entitled to relief, and (3) a demand for judgment for the relief the pleader seeks. Relief in the alternative or of several different types may be demanded.

In 28 U.S.C. § 1915(d), Congress has authorized United States District Courts to grant leave to plaintiffs unable to afford filing fees to proceed *in forma pauperis*.

In these combined cases the plaintiff has been granted leave to proceed *in forma pauperis*. If such leave had not been granted, as the plaintiff had requested, these civil actions would be dismissed unless the filing fees were paid. See, Doc. 4, Order of June 22, 2006 (M.D.Pa. Civil No. 1:06-CV-1207).

In 28 U.S.C. § 1915A(b), Congress has directed United States District Courts to dismiss *in forma pauperis* actions that fail to state a claim upon which relief can be granted. A civil action that does not comply with Rule 8(a) of the Federal Rules of Civil Procedure generally does not state a claim upon which relief can be granted. That is the reason why in the Order of July 10, 2006 (Doc. 6) the plaintiff was directed to file an amended complaint; that is, if the plaintiff has a claim upon which relief may be granted he should be given another opportunity to state that claim before his complaint is

dismissed pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure¹, Rule 8(a) of the Federal Rules of Civil Procedure and 28 U.S.C. § 1915A(b).

The plaintiff elects not to file an amended complaint. The complaint filed in 1:06-CV-1207 is the only complaint that pleads any facts. The facts pleaded in that complaint are summarized and quoted in the Order of June 22, 2006 (Doc. 4). We will not restate that summarization and quoted portions, but incorporate Doc. 4 herein. We are not adequately certain of the plaintiff's allegations or of his cause of action to further discuss his claim(s). A claim upon which relief can be granted is not stated.

It is recommended that these consolidated complaints be dismissed pursuant to Rules 8 and 12 of the Federal Rules of Civil Procedure and 28 U.S.C. § 1915A.

/s/ J. Andrew Smyser
J. Andrew Smyser
Magistrate Judge

Dated: July 17, 2006.

¹ Rule 12(b)(6) provides that when a complaint fails to state a claim upon which relief can be granted, the complaint is subject to dismissal before a responsive pleading is filed by the defendant(s).

